

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 66 of 2000

in

SPECIAL CIVIL APPLICATION No 8791 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

and

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

ADMINISTRATIVE OFFICER

Versus

ABDUL REHMAN POLADI ANSARI

Appearance:

MR AD OZA for Appellant

MR MA KHARADI for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE D.P.BUCH

Date of decision: 08/11/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

The sole question which has been agitated in this appeal under Clause 15 of the Letters Patent, is as to whether the direction for consideration of an application for transfer made by respondent no.1-original petitioner in the main petition is warranted or not, to which the answer given by the learned Single Judge is quite justified. We find that there is no any material which would warrant our interference exercising our powers under Clause 15 of the Letters Patent.

2. The original petitioner is a Primary School Teacher and who applied for inter-district transfer to the original respondent No.1-Education Committee (appellant herein), pursuant to which he was called for the interview in the year 1992. However, he was not selected for inter-district transfer by the Education Committee. It has been stated by the learned Advocate for the appellant that all the applications received prior to 31.3.1992 were considered and after selecting 17 persons for transfer by the respondent No.1-Committee, rest of the applications were cancelled. It is also the case of the appellant that in view of the Resolution dated 15.9.1992, rest of the applications were required to be cancelled, as after 1.4.1992, fresh applications were invited and only those applications were liable to be considered by the Board. It is apparent that the original petitioner made application afresh in the year 1995. The Learned Single Judge did not find favour with the plea raised by the appellant, since the decision, if any, had never been communicated to the original petitioner. It was, therefore, held that, prima facie, the action in rejecting the unilaterally the application for inter-district transfer, is not sustainable. During the pendency of the main petition, by way of relief, the impugned direction to consider the application referred by the original petitioner in the year 1989, in the facts and circumstances, could not be said to be any way, vulnerable. Therefore, the petition was allowed and Rule was made absolute, which is under challenge before us.

3. The view which we are inclined to take, is also in consonance with the view taken by this Court in LPA No.229/2000 in Special Civil Application no.8984/99 dated 19.6.2000.

4. After having heard the learned Advocates

appearing for the parties and examining the impugned order of the learned Single Judge, a direction only for consideration, in the facts and circumstances, of the application for inter-district transfer made by the original petitioner in 1989, is quite justified requiring no interference. Obviously, it will be open for the appellant-original respondent-Committee to consider this application on the basis of the then policy or the existing policy and whatever the decision is rendered, after due consideration of the inter-district transfer application, on its merits as directed in the impugned order, the same shall be communicated to the original petitioner. In our opinion, this appeal, therefore, is without any substance and deserves only fate of dismissal and, therefore, it is dismissed. Rule is discharged. No order as to costs.

08.11.2000 [J N Bhatt, J.]

[D P Buch, J.]

msp.